IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2711 of 2005

Between:

M.V.R. Sastry, S/o. Late M.L.N. Sastry, Editor,
Andhra Bhoomi Telugu Daily, 36, S.D. Road, Secunderabad.

..... PETITIONER

AND

1 The Station House Officer, 1-Town P.S. Rajahmundry.
2 Muppala Subba Rao, S/o. Lakshmi Narayana Ramalayam Street,
Tadithota, Rajahmundry

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ more particularly one in the nature of Writ of Mandamus, set-aside the C.C. No. 264 of 2000 on the file of the II Addl. Judicial First Class Magistrate, Rajahmundry and forbearing the 1st respondent from executing the N.B.W. pending against the petitioner, and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner:MR.A.CHANDRASEKHAR

Counsel for the Respondent No.1: GP FOR HOME

The Court at the stage of admission made the following ORDER:

This writ petition is filed seeking a writ of *mandamus* to set aside C.C.No.264 of 2000 on the file of the II Additional Judicial Magistrate of First Class, Rajahmundry and for further direction to the first respondent viz. the Station House Officer, I Town Police Station, Rajahmundry, not to execute the Non-bailable warrants (N.B.Ws.) pending against the petitioner.

The petitioner states that he is an Editor of a Telugu daily “Andhra Bhoomi”. He states that the second respondent submitted a complaint before the trial Court alleging that one Mr. M.G. Rajan got the advertisement issued in the said daily, on 18.07.1996, containing certain derogatory statements against him and therefore prayed the Court to punish the accused for the offence under Section 500 I.P.C. The petitioner was arrayed as A2 in that complaint.

Heard the learned counsel for petitioner and learned Government Pleader for Home.

Though the petitioner had urged several contentions as to the very maintainability of the complaint, this Court is not inclined to deal with the same, at this stage. The complaint is said to be pending in the trial Court since 1997 and it has been recently split and re-numbered as C.C.No.264 of 2000. The case is now said to be listed on 17.02.2005 i.e. tomorrow.

The main grievance of the petitioner appears to be the pendency of N.B.W. against him. He states that he was not aware of the issuance of N.B.W. and on verification from the Court, he has come to know that even the complainant did not take necessary steps for execution of the same. It is alleged that soon after he came to know about the pendency of the N.B.W., petitioner filed an application under Section 70(2) Cr.P.C., to recall the N.B.W., and despite the same the trial Court is insisting on his appearance. He apprehends that he may be sent to remand and in such an event, he would be put to great hardship. He undertakes to participate in the proceedings without any hindrance. Reliance is placed upon the Judgments rendered by this Court dealing with the recall of N.B.Ws.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing that-

a. It shall be open to the petitioner to raise all the contentions, as to the absence of the very basis for the complaint against him, before the trial Court itself;

b. In case the petitioner appears before the trial Court on 28.02.2005, the trial Court shall recall the N.B.W., duly recording the undertaking of the petitioner to appear before the Court as and when it is necessary;

c. There shall be no order as to costs.

18.02.2005

Note:

Issue CC in two days.

(BO)

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To

1 The Second Additional Judicial Magistrate of First, Rajahmundry.

2 The Station House Officer, 1-Town P.S. Rajahmundry.
3 Two CCs. to the G.P. for Home, High Court of A.P., Hyderabad

(OUT).

4 Two CD copies.